

**§ 902.83 Interventions.**

(a) Interventions under this part (including an assumption of operating responsibilities) may be limited to one or more of a PHA's specific operational areas (*e.g.*, maintenance, modernization, occupancy, or financial management) or to a single development or a group of developments. Under this limited intervention procedure, HUD could select, or participate in the selection of, an AME to assume management responsibility for a specific development, a group of developments in a geographical area, or a specific operational area, while permitting the PHA to retain responsibility for all programs, operational areas, and developments not so designated.

(b) Upon determining that a substantial default exists under this part, HUD may initiate any interventions deemed necessary to maintain decent, safe, and sanitary dwellings for residents. Such intervention may include:

(1) Providing technical assistance for existing PHA management staff;

(2) Selecting or participating in the selection of an AME to provide technical assistance or other services up to and including contract management of all or any part of the public housing developments administered by a PHA;

(3) Assuming possession and operational responsibility for all or any part of the public housing administered by a PHA;

(4) Entering into agreements, arrangements, and/or contracts for or on behalf of a PHA, or acting as the PHA, and expending or authorizing the expenditure of PHA funds, irrespective of the source of such funds, to remedy the events or conditions constituting the substantial default;

(5) The provision of intervention and assistance necessary to remedy emergency conditions;

(6) After the solicitation of competitive proposals, select an administrative receiver to manage and operate all or part of the PHA's housing; and

(7) Petition for the appointment of a receiver to any District Court of the United States or any court of the State in which real property of the PHA is located.

(c) The receiver is to conduct the affairs of the PHA in a manner con-

sistent with statutory, regulatory, and contractual obligations of the PHA and in accordance with such additional terms and conditions that the court may provide and with section 6(j)(3)(C) of the Act.

(d) The appointment of a receiver pursuant to this section may be terminated upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(e) HUD may take the actions described in this part sequentially or simultaneously in any combination.

**§ 902.85 Resident petitions for remedial action.**

The total number of residents that petition HUD to take remedial action pursuant to sections 6(j)(3)(A) (i) through (iv) of the Act must equal at least 20 percent of the residents, or the petition must be from an organization or organizations of residents whose membership must equal at least 20 percent of the PHA's residents.

**PART 903—PUBLIC HOUSING AGENCY PLANS**

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## Office of the Assistant Secretary, HUD

## § 903.5

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AUTHORITY: 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

SOURCE: 64 FR 56862, Oct. 21, 1999, unless otherwise noted.

### § 903.1 What are the public housing agency plans?

(a) There are two public housing agency plans. They are:

(1) The 5-year plan (the 5-Year Plan) that a public housing agency (PHA) must submit to HUD once every 5 PHA fiscal years; and

(2) The annual plan (Annual Plan) that the PHA must submit to HUD for each fiscal year for which the PHA receives:

(i) Section 8 tenant-based assistance (under section 8(o) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f(o)) (tenant-based assistance); or

(ii) Amounts from the public housing operating fund or capital fund (under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (public housing)).

(b) The purpose of the plans is to provide a framework for local accountability and an easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning its operations, programs and services.

(c) HUD may prescribe the format of submission (including electronic format submission) of the plans, as well as the format of attachments to the plans and documents related to the plan that the PHA does not submit but may be required to make available locally. PHAs will receive appropriate notice of any prescribed format.

(d) The requirements of this part only apply to a PHA that receives the type of assistance described in paragraph (a) of this section.

(e) In addition to the waiver authority provided in 24 CFR 5.110, the Secretary may, subject to statutory limitations, waive any provision of this title on a program-wide basis, and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)) where the

Secretary determines that such waiver is necessary for the effective implementation of this part.

(f) References to the "1937 Act" in this part refer to the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*)

### § 903.3 When must a PHA submit the plans to HUD?

(a) *5-Year Plan.* (1) The first PHA fiscal year that is covered by the requirements of this part is the PHA fiscal year that begins January 1, 2000. The first 5-Year Plan submitted by a PHA must be submitted for the 5-year period beginning January 1, 2000. The first 5-Year Plans for such PHAs are due on December 1, 1999. For PHAs whose fiscal years begin after January 1, 2000, the 5-Year Plans are due no later than 75 days before the commencement of their fiscal year. For all PHAs, after submission of their first 5-Year Plan, all subsequent 5-Year Plans must be submitted once every 5 PHA fiscal years, no later than 75 days before the commencement of the PHA's fiscal year.

(2) PHAs may choose to update their 5-Year Plans every year as good management practice. PHAs must explain any substantial deviation from their 5-Year Plans in their Annual Plans.

(b) *The Annual Plan.* The first fiscal year that is covered by the requirements of this part is the PHA fiscal year that begins January 1, 2000. The first Annual Plans for such PHAs are due December 1, 1999. For PHAs whose fiscal years begin after January 1, 2000, the first Annual Plans are due 75 days in advance of PHAs fiscal year commencement dates. For all PHAs, after submission of the first Annual Plan, all subsequent Annual Plans will be due 75 days in advance of the commencement of a PHA's fiscal year.

### § 903.5 What information must a PHA provide in the 5-Year Plan?

(a) A PHA must include in its 5-Year Plan for the 5 PHA fiscal years immediately following the date on which the 5-Year Plan is due to HUD, a statement of:

(1) The PHA's mission for serving the needs of low-income, very low-income and extremely low-income families in the PHA's jurisdiction; and

(2) The PHA's goals and objectives that enable the PHA to serve the needs of the families identified in the PHA's Annual Plan. For HUD, the PHA and the public to better measure the success of the PHA in meeting its goals and objectives, PHAs must adopt quantifiable goals and objectives for serving those needs wherever possible.

(b) After submitting its first 5-Year Plan, a PHA in its succeeding 5-Year Plans, in addition to addressing its mission, goals and objectives for the next 5 years, must address the progress it has made in meeting the goals and objectives described in its previous 5-Year Plan.

**§ 903.7 What information must a PHA provide in the Annual Plan?**

With the exception of the first Annual Plan submitted by a PHA, the Annual Plan must include the information provided in this section. HUD will advise PHAs by separate notice, sufficiently in advance of the first Annual Plan submission date, of the information, described in this section that must be included in the first Annual Plan, and any additional instructions or directions that may be necessary with respect to preparation and submission of the first Annual Plan. The information described in this section applies to both public housing and tenant-based assistance, except where specifically stated otherwise. Additionally, the information that the PHA must submit for HUD approval under the Annual Plan are the discretionary policies of the various plan components or elements (for example, rent policies) and not the statutory or regulatory requirements that govern these components. The PHA's Annual Plan also must be consistent with the goals and objectives of the PHA's 5-Year Plan.

(a) *A statement of housing needs.* (1) This statement must address the housing needs of the low-income and very low-income families who reside in the jurisdiction served by the PHA, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists, including:

(i) Families with incomes below 30 percent of area median (extremely low-income families);

(ii) Elderly families and families with disabilities;

(iii) Households of various races and ethnic groups residing in the jurisdiction or on the waiting list.

(2) A PHA must make reasonable efforts to identify the housing needs of each of the groups listed in paragraph (a)(1) on this section based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data. The identification of housing needs should address issues of affordability, supply, quality, accessibility, size of units and location. The statement of housing needs also must describe the ways in which the PHA intends, to the maximum extent practicable, to address those needs, and the PHA's reasons for choosing its strategy.

(b) *A statement of financial resources.* This statement must address the financial resources that are available to the PHA for the support of Federal public housing and tenant-based assistance programs administered by the PHA during the plan year. The statement must include a listing, by general categories, of the PHA's anticipated resources, such as PHA operating, capital and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned uses for the resources.

(c) *A statement of the PHA's policies that govern eligibility, selection, and admissions.* This statement must describe the PHA's policies governing resident or tenant eligibility, selection and admission. This statement also must describe any PHA admission preferences, and any assignment and occupancy policies that pertain to public housing units and housing units assisted under section 8(o) of the 1937 Act. The requirement to submit PHA policies governing assignment only applies to public housing. This statement also must include the following information:

(1) The PHA's procedures for maintaining waiting lists for admission to the PHA's public housing projects. The

statement must address any site-based waiting lists, as authorized by section 6(s) of the 1937 Act. This section permits PHAs to establish a system of site-based waiting lists that is consistent with all applicable civil rights and fair housing laws and regulations. Notwithstanding any other regulations, a PHA may adopt site-based waiting lists where:

(i) The PHA regularly submits required occupancy data to HUD's Multi-family Tenant Characteristics Systems (MTCS) in an accurate, complete and timely manner;

(ii) The system of site-based waiting lists provides for full disclosure to each applicant of any option available to the applicant in the selection of the development in which to reside, including basic information about available sites (location, occupancy, number and size of accessible units, amenities such as day care, security, transportation and training programs) and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types (e.g., regular or accessible) at each site;

(iii) Adoption of site-based waiting lists would not violate any court order or settlement agreement, or be inconsistent with a pending complaint brought by HUD;

(iv) The PHA includes reasonable measures to assure that such adoption is consistent with affirmatively furthering fair housing, such as reasonable marketing activities to attract applicants regardless of race or ethnicity;

(v) The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications through the following steps:

(A) As part of the submission of the Annual Plan, the PHA shall assess changes in racial, ethnic or disability-related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list, based upon MTCS occupancy data that has been confirmed to be complete and accurate by an independent audit (which may be the annual independent audit) or is otherwise satisfactory to HUD;

(B) At least every three years the PHA uses independent testers or other means satisfactory to HUD, to assure that the site-based waiting list is not being implemented in a discriminatory manner, and that no patterns or practices of discrimination exist, and providing the results to HUD; and

(C) Taking any steps necessary to remedy the problems surfaced during the review and the steps necessary to affirmatively further fair housing.

(2) The PHA's admissions policy with respect to deconcentration of very low-income families and income-mixing, as required by section 16(a)(3)(B) of the 1937 Act (42 U.S.C. 1437n). To implement this requirement, which is only applicable to public housing, PHAs must:

(i) Determine and compare the relative tenant incomes of each development occupied predominately by families with children. PHAs shall be considered to be in compliance with these requirements if they determine the average household income in all such developments combined and define higher-income families as those with incomes over this average, higher-income developments and buildings as those where the average family income is over this average, lower-income families as those with incomes under this average and lower-income developments and buildings as those where the average family income is under this average;

(ii) Consider what admissions policy measures or incentives, if any, will be needed to bring higher-income families into lower-income and buildings developments and lower-income families into higher income developments and buildings. PHA policies must devote appropriate attention to both of these goals. PHA policies must affirmatively further fair housing; and

(iii) Make any appropriate changes in their admissions policies.

(3) The policies governing eligibility, selection and admissions are applicable to public housing and tenant-based assistance, except that the information requested on site-based waiting lists and deconcentration, which information is applicable only to public housing.

(d) *A statement of the PHA's rent determination policies.* This statement must describe the PHA's basic discretionary policies that pertain to rents charged for public housing units, applicable flat rents, and the rental contributions of families receiving tenant-based assistance. For tenant-based assistance, this statement also shall cover any discretionary minimum tenant rents and payment standard policies.

(e) *A statement of the PHA's operation and management.* (1) This statement must list the PHA's rules, standards, and policies that govern maintenance and management of housing owned, assisted, or operated by the PHA. The policies listed in this statement must include a description of any measures necessary for the prevention or eradication of pest infestation which includes cockroach infestation. Additionally, this statement must include a description of PHA management organization, and a listing of the programs administered by the PHA.

(2) The information pertaining to PHA's rules, standards and policies regarding management and maintenance of housing applies only to public housing. The information pertaining to PHA and program management and listing of administered programs applies to public housing and tenant-based assistance.

(f) *A statement of the PHA grievance procedures.* This statement describes the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants. This includes public housing grievance procedures and tenant-based assistance informal review procedures for applicants and hearing procedures for participants.

(g) *A statement of capital improvements needed.* With respect to public housing only, this statement describes the capital improvements necessary to ensure long-term physical and social viability of the public housing projects, including the capital improvements to be undertaken in the year in question and their estimated costs, and any other information required for participation in the Capital Fund. PHAs also are required to include 5-Year Plans covering large capital items.

(h) *A statement of any demolition and/or disposition.* (1) *Plan for Demolition/Disposition.* With respect to public housing only, a description of any public housing project, or portion of a public housing project, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act (42 U.S.C. 1437p), and the timetable for demolition and/or disposition. The application and approval process for demolition and/or disposition is a separate process. Approval of the PHA Plan does not constitute approval of these activities.

(2) *Interim Plan for Demolition/Disposition.* Before submission of the first Annual Plan, PHAs may submit an interim PHA Annual Plan solely with respect to demolition/disposition. The interim plan must provide the required description of the action to be taken, include a certification of consistency with the Consolidated Plan, and description of how the plan is consistent with the Consolidated Plan, and confirm that a public hearing was held on the proposed action and that the resident advisory board was consulted. Interim plans for demolition/disposition are subject to PHA Plan procedural requirements in this part (see §§ 903.13, 903.15, 903.17, 903.19, 903.21, 903.23, 903.25) except that if a resident advisory board has not yet been formed, the PHA may seek a waiver of the requirement to consult with the resident advisory board on the grounds that organizations that adequately represent residents for this purpose were consulted. The actual application for demolition or disposition could be submitted at the same time or at a later date.

(i) *A statement of the public housing projects designated as housing for elderly families or families with disabilities or elderly families and families with disabilities.* With respect to public housing only, this statement identifies any public housing projects owned, assisted, or operated by the PHA, or any portion of these projects, that the PHA has designated for occupancy only by the elderly families or only by families with disabilities, or by elderly families and families with disabilities or will apply for designation for occupancy by only elderly families or only families

with disabilities, or by elderly families and families with disabilities as provided by section 7 of the 1937 Act (42 U.S.C. 1437e). The designated housing application and approval process is a separate process. Approval of the PHA Plan does not constitute approval of these activities.

(j) *A statement of the conversion of public housing to tenant-based assistance.* (1) This statement describes any building or buildings that the PHA is required to convert to tenant-based assistance under section 33 of the 1937 Act (42 U.S.C. 1437z-5), or the status of any building or buildings that the PHA may be required to convert to tenant-based assistance under section 202 of the Fiscal Year 1996 HUD Appropriations Act (42 U.S.C. 14371 note), or describes that the PHA plans to voluntarily convert under section 22 of the 1937 Act (42 U.S.C. 1437t). The statement also must include an analysis of the projects or buildings required to be converted under section 33. For both voluntary and mandatory conversions, the statement must include the amount of assistance received commencing in Federal Fiscal Year 1999 to be used for rental assistance or other housing assistance in connection with such conversion. The application and approval processes for required or voluntary conversions are separate approval processes. Approval of the PHA Plan does not constitute approval of these activities.

(2) The information required under this paragraph (j) of this section is applicable to public housing and only that tenant-based assistance which is to be included in the conversion plan.

(k) *A statement of homeownership programs administered by the PHA.* This statement describes any homeownership programs administered by the PHA under section 8(y) of the 1937 Act (42 U.S.C. 1437f(y)), or under an approved section 5(h) homeownership program (42 U.S.C. 1437c(h)), or an approved HOPE I program (42 U.S.C. 1437aaa) or for any homeownership programs for which the PHA has applied to administer or will apply to administer under section 5(h), the HOPE I program, or section 32 of the 1937 Act (42 U.S.C. 1437z-4). The application and approval process for homeownership

under the programs described in paragraph (k) of this section, with the exception of the section 8(y) homeownership program, are separate processes. Approval of the PHA Plan does not constitute approval of these activities.

(l) *A statement of the PHA's community service and self-sufficiency programs.* (1) This statement describes:

(i) Any PHA programs relating to services and amenities coordinated, promoted or provided by the PHA for assisted families, including programs provided or offered as a result of the PHA's partnership with other entities;

(ii) Any PHA programs coordinated, promoted or provided by the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs provided or offered as a result of the PHA's partnerships with other entities, and activities under section 3 of the Housing and Community Development Act of 1968 and under requirements for the Family Self-Sufficiency Program and others. The description of programs offered shall include the program's size (including required and actual size of the Family Self-Sufficiency program) and means of allocating assistance to households.

(iii) How the PHA will comply with the requirements of section 12(c) and (d) of the 1937 Act (42 U.S.C. 1437j(c) and (d)). These statutory provisions relate to community service by public housing residents and treatment of income changes in public housing and tenant-based assistance recipients resulting from welfare program requirements. PHAs must address any co-operation agreements, as described in section 12(d)(7) of the 1937 Act (42 U.S.C. 1437j(d)(7)), that the PHA has entered into or plans to enter into.

(2) The information required by paragraph (l) of this section is applicable to both public housing and tenant-based assistance, except that the information regarding the PHA's compliance with the community service requirement applies only to public housing.

(m) *A statement of the PHA's safety and crime prevention measures.* With respect to public housing only, this statement describes the PHA's plan for safety and crime prevention to ensure

the safety of the public housing residents that it serves. The plan for safety and crime prevention must be established in consultation with the police officer or officers in command of the appropriate precinct or police departments, and the plan must provide, on a development-by-development or jurisdiction wide-basis, the measures necessary to ensure the safety of public housing residents.

(1) The statement regarding the PHA's safety and crime prevention plan must include the following information:

(i) A description of the need for measures to ensure the safety of public housing residents;

(ii) A description of any crime prevention activities conducted or to be conducted by the PHA; and

(iii) A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities.

(2) If the PHA expects to receive drug elimination program grant funds, the PHA must submit, in addition to the information required by paragraph (m)(1) of this section, the plan required by HUD's Public Housing Drug Elimination Program regulations (see 24 CFR part 761).

(3) If HUD determines at any time that the security needs of a public housing project are not being adequately addressed by the PHA's plan, or that the local police precinct is not assisting the PHA with compliance with its crime prevention measures as described in the Annual Plan, HUD may mediate between the PHA and the local precinct to resolve any issues of conflict.

(n) *A statement of the PHA's policies and rules regarding ownership of pets in public housing.* This statement describes the PHA's policies and requirements pertaining to the ownership of pets in public housing issued in accordance with section 31 of the 1937 Act (42 U.S.C. 1437a-3).

(o) *Civil rights certification.* (1) The PHA must certify that it will carry out its plan in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601-19), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794),

and title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), and also certify that it will affirmatively further fair housing. The certification is applicable to both the 5-Year Plan and the Annual Plan.

(2) PHAs shall be considered in compliance with the certification requirement to affirmatively further fair housing if they examine their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available, work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement, and maintain records reflecting these analyses and actions.

(p) *Recent results of PHA's fiscal year audit.* The PHA's plan must include the results of the most recent fiscal year audit of the PHA conducted under section 5(h)(2) of the 1937 Act (42 U.S.C. 1437c(h)).

(q) *A statement of asset management.* To the extent not covered by other components of the PHA Annual Plan, this statement describes how the PHA will carry out its asset management functions with respect to the PHA's public housing inventory, including how the PHA will plan for long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(r) *Additional information to be provided.* (1) For all Annual Plans following submission of the first Annual Plan, a PHA must include a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan;

(2) A PHA must identify the basic criteria the PHA will use for determining:

(i) A substantial deviation from its 5-Year Plan; and

(ii) A significant amendment or modification to its 5-Year Plan and Annual Plan.

(3) A PHA must include such other information as HUD may request of PHAs, either on an individual or across-the-board basis. HUD will advise the PHA or PHAs of this additional information through advance notice.

**§ 903.9 May HUD request additional information in the Annual Plan of a troubled PHA?**

HUD may request that a PHA that is at risk of being designated as troubled or is designated as troubled under section 6(j)(2) of the 1937 Act (42 U.S.C. 1437d(j)(2)), under the Public Housing Management Assessment Program (24 CFR part 901) or under the Public Housing Assessment System (24 CFR part 902) include its operating budget, and include or reference any applicable memorandum of agreement with HUD or other plan to improve performance and such other material as HUD may prescribe.

**§ 903.11 Are certain PHAs eligible to submit a streamlined Annual Plan?**

(a) Yes, the following PHAs may submit a streamlined Annual Plan, as described in paragraph (b) of this section:

(1) PHAs that are determined to be high performing PHAs as of the last annual or interim assessment of the PHA before the submission of the 5-Year or Annual Plan;

(2) PHAs with less than 250 public housing units (small PHAs) and that have not been designated as troubled under section 6(j)(2); and

(3) PHAs that only administer tenant-based assistance and that do not own or operate public housing.

(b) All streamlined plans must provide information on how the public may reasonably obtain additional information on the PHA policies contained in the standard Annual Plan, but excluded from their streamlined submissions. A streamlined plan must include the following information:

(1) For high performing PHAs, the streamlined Annual Plan must include the information required by § 903.7(a), (b), (c), (d), (g), (h), (m), (n), (o), (p) and (r). The information required by § 903.7(m) must be included only to the extent this information is required for PHA's participation in the public housing drug elimination program and the PHA anticipates participating in this program in the upcoming year.

(2) For small PHAs that are not designated as troubled or that are not at risk of being designated as troubled under section 6(j)(2) of the 1937 Act the streamlined Annual Plan must include

the information required by § 903.7(a), (b), (c), (d), (g), (h), (k), (m), (n), (o), (p) and (r). The information required by § 903.7(k) must be included only to the extent that the PHA participates in homeownership programs under section 8(y). The information required by § 903.7(m) must be included only to the extent this information is required for the PHA's participation in the public housing drug elimination program and the PHA anticipates participating in this program in the upcoming year.

(3) For PHA's that administer only tenant-based assistance, the streamlined Annual Plan must include the information required by § 903.7(a), (b), (c), (d), (e), (f), (k), (l), (o), (p) and (r).

**§ 903.13 What is a Resident Advisory Board and what is its role in development of the Annual Plan?**

(a) A Resident Advisory Board is a board or boards, as provided in paragraph (b) of this section, whose membership consists of individuals who adequately reflect and represent the residents assisted by the PHA.

(1) The role of the Resident Advisory Board (or Resident Advisory Boards) is to assist and make recommendations regarding the development of the PHA plan, and any significant amendment or modification to the PHA plan.

(2) The PHA shall allocate reasonable resources to assure the effective functioning of Resident Advisory Boards. Reasonable resources for the Resident Advisory Boards must provide reasonable means for them to become informed on programs covered by the PHA Plan, to communicate in writing and by telephone with assisted families and hold meetings with those families, and to access information regarding covered programs on the internet, taking into account the size and resources of the PHA.

(b) Each PHA must establish one or more Resident Advisory Boards, as provided in paragraph (b) of this section.

(1) If a jurisdiction-wide resident council exists that complies with the tenant participation regulations in 24 CFR part 964, the PHA shall appoint the jurisdiction-wide resident council or its representatives as the Resident Advisory Board, except that members



shall be added or another Resident Advisory Board formed to provide for reasonable representation of families receiving tenant-based assistance where such representation is required under paragraph (b)(2) of this section. If a jurisdiction-wide resident council does not exist but resident councils exist that comply with the tenant participation regulations, the PHA shall appoint such resident councils or their representatives to serve on or more Resident Advisory Boards, provided that the PHA may require that the resident councils choose a limited number of representatives.

(2) Where the PHA has a tenant-based assistance program of significant size (where tenant-based assistance is 20% or more of assisted households), the PHA shall assure that the Resident Advisory Board or Boards has reasonable representation of families receiving tenant-based assistance and that a reasonable process is undertaken to choose this representation.

(3) Where or to the extent that resident councils that comply with the tenant participation regulations do not exist, the PHA shall appoint Resident Advisory Boards or Board members as needed to adequately reflect and represent the interests of residents of such developments; provided that the PHA shall provide reasonable notice to such residents and urge that they form resident councils with the tenant participation regulations.

(c) The PHA must consider the recommendations of the Resident Advisory Board or Boards in preparing the final Annual Plan, and any significant amendment or modification to the Annual Plan, as provided in § 903.21.

(1) In submitting the final plan to HUD for approval, or any significant amendment or modification to the Plan to HUD for approval, the PHA must include a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the PHA addressed these recommendations.

(2) Notwithstanding the 75-day limitation on HUD review, in response to a written request from a Resident Advisory Board claiming that the PHA failed to provide adequate notice and

opportunity for comment, HUD may make a finding of good cause during the required time period and require the PHA to remedy the failure before final approval of the plan.

**§ 903.15 What is the relationship of the public housing agency plans to the Consolidated Plan?**

(a) The PHA must ensure that the Annual Plan is consistent with any applicable Consolidated Plan for the jurisdiction in which the PHA is located. The Consolidated Plan includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice.

(1) The PHA must submit a certification by the appropriate State or local officials that the Annual Plan is consistent with the Consolidated Plan and include a description of the manner in which the applicable plan contents are consistent with the Consolidated Plans.

(2) For State agencies that are PHAs, the applicable Consolidated Plan is the State Consolidated Plan.

(b) A PHA may request to change its fiscal year to better coordinate its planning with the planning done under the Consolidated Plan process, by the State or local officials, as applicable.

**§ 903.17 What is the process for obtaining public comment on the plans?**

(a) The PHA's board of directors or similar governing body must conduct a public hearing to discuss the PHA plan (either the 5-Year Plan and/or Annual Plan, as applicable) and invite public comment on the plan(s). The hearing must be conducted at a location that is convenient to the residents served by the PHA.

(b) Not later than 45 days before the public hearing is to take place, the PHA must:

(1) Make the proposed PHA plan(s), the required attachments and documents related to the plans, and all information relevant to the public hearing to be conducted, available for inspection by the public at the principal office of the PHA during normal business hours; and

(2) Publish a notice informing the public that the information is available for review and inspection, and

that a public hearing will take place on the plan, and the date, time and location of the hearing.

(c) PHAs shall conduct reasonable outreach activities to encourage broad public participation in the PHA plans.

**§ 903.19 When is the 5-Year Plan or Annual Plan ready for submission to HUD?**

A PHA may adopt its 5-Year Plan or its Annual Plan and submit the plan to HUD for approval only after:

(a) The PHA has conducted the public hearing;

(b) The PHA has considered all public comments received on the plan;

(c) The PHA has made any changes to the plan, based on comments, after consultation with the Resident Advisory Board or other resident organization.

**§ 903.21 May the PHA amend or modify a plan?**

(a) A PHA, after submitting its 5-Year Plan or Annual Plan to HUD, may amend or modify any PHA policy, rule, regulation or other aspect of the plan. If the amendment or modification is a significant amendment or modification, as defined in § 903.7(r)(2), the PHA:

(1) May not adopt the amendment or modification until the PHA has duly called a meeting of its board of directors (or similar governing body) and the meeting, at which the amendment or modification is adopted, is open to the public; and

(2) May not implement the amendment or modification, until notification of the amendment or modification is provided to HUD and approved by HUD in accordance with HUD's plan review procedures, as provided in § 903.23.

(b) Each significant amendment or modification to a PHA Plan submitted to HUD is subject to the requirements of §§ 903.13, 903.15, and 903.17.

**§ 903.23 What is the process by which HUD reviews, approves, or disapproves an Annual Plan?**

(a) *Review of the plan.* When the PHA submits its Annual Plan to HUD, including any significant amendment or modification to the plan, HUD reviews the plan to determine whether:

(1) The plan provides all the information that is required to be included in the plan;

(2) The plan is consistent with the information and data available to HUD and with any applicable Consolidated Plan for the jurisdiction in which the PHA is located; and

(3) The plan is not prohibited or inconsistent with the 1937 Act or any other applicable Federal law.

(b) *Disapproval of the plan.* (1) HUD may disapprove a PHA plan, in its entirety or with respect to any part, or disapprove any significant amendment or modification to the plan, only if HUD determines that the plan, or one of its components or elements, or any significant amendment or modification to the plan:

(i) Does not provide all the information that is required to be included in the plan;

(ii) Is not consistent with the information and data available to HUD or with any applicable Consolidated Plan for the jurisdiction in which the PHA is located; or

(iii) Is not consistent with applicable Federal laws and regulations.

(2) Not later than 75 days after the date on which the PHA submits its plan, or the date on which the PHA submits its significant amendment or modification to the plan, HUD will issue written notice to the PHA if the plan or a significant amendment or modification has been disapproved. The notice that HUD issues to the PHA must state with specificity the reasons for the disapproval. HUD may not state as a reason for disapproval the lack of time to review the plan.

(3) If HUD fails to issue the notice of disapproval on or before the 75th day after the PHA submits the plan, HUD shall be considered to have determined that all elements or components of the plan required to be submitted and that were submitted, and to be reviewed by HUD were in compliance with applicable requirements and the plan has been approved.

(4) The provisions of paragraph (b)(3) of this section do not apply to troubled PHAs. The plan of a troubled PHA must be approved or disapproved by HUD through written notice.

## § 903.25

(c) *Designation of due date as submission date for initial plan submissions.* For purposes of the 75-day period described in paragraph (b) of this section, the first 5-year and Annual Plans submitted by a PHA will be considered to have been submitted on their due date (December 1, 1999 or 75 days before the start of the PHA fiscal year, as appropriate; see § 903.3).

(d) *Public availability of the approved plan.* Once a PHA's plan has been approved, a PHA must make its approved plan and the required attachments and documents related to the plan, available for review and inspection, at the principal office of the PHA during normal business hours.

### § 903.25 How does HUD ensure PHA compliance with its plan?

A PHA must comply with the rules, standards and policies established in the plans. To ensure that a PHA is in compliance with all policies, rules, and standards adopted in the plan approved by HUD, HUD shall, as it deems appropriate, respond to any complaint concerning PHA noncompliance with its plan. If HUD should determine that a PHA is not in compliance with its plan, HUD will take whatever action it deems necessary and appropriate.

## PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

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#### Subpart B—Turnkey III Program Description

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- 904.101 Introduction.
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- 904.104 Eligibility and selection of homebuyers.
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- 904.110 Earned Home Payments Account. (EHPA)
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- 904.113 Achievement of ownership by initial homebuyer.
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- 904.115 Achievement of ownership by subsequent homebuyers.
- 904.116 Transfer of title to homebuyer.
- 904.117 Responsibilities of homebuyer after acquisition of ownership.
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- 904.119 Homeowners association-condominium.
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- 904.301 Purpose.
- 904.302 Membership.
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APPENDIX I—ARTICLES OF INCORPORATION AND BY-LAWS OF HOMEBUYERS ASSOCIATION

APPENDIX II—RECOGNITION AGREEMENT BETWEEN LOCAL HOUSING AUTHORITY AND HOMEBUYERS ASSOCIATION

AUTHORITY: 42 U.S.C. 1437-1437ee and 3535(d).